

IN THE SUPREME COURT OF CALIFORNIA

THE PEOPLE,)	
)	S105781
)	
Plaintiff and Respondent,)	
)	Ct.App. 3
v.)	C036904
)	
VICTOR RODRIGUEZ MONTES,)	
)	Tehama County
Defendant and Appellant.)	Super. Ct. No. NCR52438
_____)	

THE COURT:

MODIFICATION OF OPINION

The opinion herein, filed on July 31, 2003, appearing at 31 Cal.4th 350, is modified as follows:

On page 11, footnote 12, line 5 of the filed opinion, the word “determinate” is changed to read “indeterminate.”

On page 12, line 3 of the filed opinion, the word “determinate” is changed to read “indeterminate.”

On pages 13 and 14 of the filed opinion, the following language, commencing with “since section 2933.1, subdivision (a) mandates that a defendant convicted of a ‘violent felony’ shall accrue no more than 15 percent of worktime credit,” and including the entirety of footnote 14, which appears after the word “credit,” is deleted. The sentence in which the deleted language appeared is modified to read as follows:

“This is so because the 15-year minimum eligible parole date set by section 186.22(b)(5) would not impact the defendant’s sentence of 25 years to life under section 12022.53(d).”

On page 14 of the filed opinion, footnote 15 is renumbered as footnote 14.

On page 14 of the filed opinion, the fifth sentence of former footnote 15 (now footnote 14) reads: “While newer and more powerful sentencing laws, such as section 190, have sapped the strength of section 186.22(b)(5), section 186.22(b)(5) still has vitality where, as here, the defendant is convicted of attempted murder without premeditation.” This sentence is modified to delete “, as here,” and to change the word “without” to “with.” The modified sentence reads as follows: “While newer and more powerful sentencing laws, such as section 190, have sapped the strength of section 186.22(b)(5), section 186.22(b)(5) still has vitality where the defendant is convicted of attempted murder with premeditation.”

This modification does not affect the judgment.